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7 *Attorneys for the United States of America*

8
9 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

10 United States of America,

11 Plaintiff,

12 v.

13 Leon W. Lipson, in his capacity as Personal
14 Representative of the Estate of Jean Lipson;
Leon W. Lipson, in his capacity as a Trustee
15 of the Jean Lipson Trust;
Nadine Lipson, in her capacity as a Trustee of
16 the Jean Lipson Trust;
Nadine Lipson, in her capacity as Personal
17 Representative of the Estate of David E.
Lipson;
18 Nadine Lipson, individually,
19 Defendants.

Case No. 2:23-cv-00127-JCM-DJA

**STIPULATION TO EXTEND TIME TO
FILE OPPOSITION TO SUMMARY
JUDGMENT MOTION
(Second Request)**

20 Pursuant to LR IA 6-1, Plaintiff the United States of America and Defendants Leon W.
21 Lipson, in his capacity as Personal Representative of the Estate of Jean Lipson and in his
22 capacity as a Trustee of the Jean Lipson Trust, and Nadine Lipson, individually and in her
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24 STIPULATION TO EXTEND
MOTION OPPOSITION DEADLINE
25 (SECOND REQUEST)

1 capacity as Personal Representative of the Estate of David E. Lipson (collectively, the “parties”),
 2 stipulate and move the Court to extend by thirteen days the deadline for the United States to
 3 respond to the Defendants’ Motion for Summary Judgment, which was filed on April 4. If
 4 granted, the deadline to respond to Defendants’ Motion for Summary Judgment would be
 5 extended from May 2, 2024 to May 15, 2024.

6 This is the parties’ second request for an extension of the deadline for the United States
 7 to respond to this summary judgment motion. The Court previously granted a stipulation to
 8 extend the deadline by one week, from April 25 to May 2. Dkt. 24. That deadline has passed.

9 The Court may grant an extension request made after the expiration of the period where
 10 the party demonstrates that the failure to file the motion before the deadline expired was the
 11 result of excusable neglect. Fed. R. Civ. P. 6(b)(1)(B); LR IA 6-1(a).

12 The excusable neglect inquiry is equitable in nature and takes into account all relevant
 13 surrounding circumstances of the party’s omission, including at least four factors: “(1) the danger
 14 of prejudice to the opposing party; (2) the length of the delay and its potential impact on the
 15 proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith.”
 16 *Bateman v. U.S. Postal Service*, 231 F.3d 1220, 1223-24 (9th Cir.2000) (citing *Pioneer*
 17 *Investment Services Co. v. Brunswick Associates Limited Partnership*, 507 U.S. 380, 395
 18 (1993)); *see also Allied Prop. & Cas. Ins. Co. v. Beazer Homes Holdings Corp.*, No. 2:09-CV-
 19 626 JCM-PAL, 2013 WL 638632, at *2 (D. Nev. Feb. 19, 2013) (applying four-part *Pioneer*
 20 Excusable Neglect balancing test to Rule 6(b)(1)(B)).

21 First, there is no danger of prejudice to the Defendants if the Court were to grant the
 22 stipulation. Indeed, the Defendants have stipulated and joined this motion seeking to allow the
 23 United States more time to respond to their motion. Their decision to join this motion

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1 demonstrates that they do not believe a delay would cause them prejudice. Defendants also
2 stipulated to the parties' first extension request. Thus, there is no prejudice to the opposing
3 party, and the first factor of *Pioneer's* equitable remedy test weighs in favor of the United States.

4 Second, the delay and its potential impact on the proceedings is minimal. If this request
5 is granted, the response to Defendants' motion for summary judgment will be delayed at most
6 three weeks. The motion will be ripe less than one month after the initial deadline, resulting in
7 relatively minor potential future delay on the proceedings. *See Bateman*, 231 F. 3d at 1225.

8 Third, in failing to timely request an extension of the instant deadline, the United States
9 acted carelessly. While the United States admits that this is not a particularly compelling reason,
10 excusable neglect includes situations that are "attributable to negligence" and omissions that are
11 "caused by carelessness." *Lemonge v. United States*, 587 F.3d 1188, 1192 (9th Cir. 2009).

12 Thus, the third factor does not weigh heavily against the United States, if at all.

13 Fourth, the movant is acting in good faith. The error resulted from negligence and
14 carelessness, rather than deviousness or willfulness. *See Bateman*, 231 F. 3d at 1225. The final
15 factor also weighs in favor of the United States.

16 Finally, the United States does not seek this extension to hinder or delay this action.
17 Rather it seeks the extension in good faith, for the reasons explained above.

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For the above reasons, the parties therefore seek that the current deadline be extended by an additional thirteen days from May 2, 2024 to May 15, 2024.

Respectfully submitted this 7th day of May, 2024,

U.S. DEPT. OF JUSTICE, TAX DIVISION

ROYAL & MILES LLP

DAVID A. HUBBERT
Deputy Assistant Attorney General

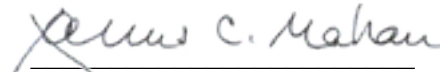
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/s/ Gregory A. Miles
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Attorneys for the United States of America

IT IS SO ORDERED:


United States District Judge

Dated:
May 8, 2024

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CERTIFICATE OF SERVICE

I certify that on May 7, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notice to all parties who have appeared in this case and are authorized to receive electronic notice of filings.

/s/ Timothy J. Huether
TIMOTHY J. HUETHER
Trial Attorney, Tax Division
U.S. Department of Justice

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